

A USER'S GUIDE TO EFFECTIVE JOINT FACT FINDING



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Introduction

Ensuring food safety and food security ... slowing the deterioration and depletion of potable water... providing health and hospitalization services for homeless families ... rebuilding the economy and creating more jobs ...

Conflicts over legal, policy and regulatory problems are an inherent part of pluralistic societies. Friction is normal, and government-centered institutions have developed time-tested procedures for grappling with it. However, many of today's major science-intensive disputes around matters such as the regulation of genetically engineered foods, transitioning to renewable energy, and planning for climate change, are outpacing our conventional approaches to governance and decision-making.

No set of organizations from government, industry or the community can fully manage broad problems like these that cross sectors and boundaries. No single discipline can fully explain them. No particular agency of government or private interest group has the full jurisdiction to solve them. No single person or institution has the power to force solutions and no locale can stand as a walled-off entity.

Today's circumstances require smarter cooperation strategies. Problem solving *must* become a team sport.

This manual describes a supplementary approach to constructive engagement that is gaining traction by virtue of its effectiveness. Joint Fact Finding (JFF) is most appropriate in the face of difficult, fact-intensive issues and can result in productive cross-sector dialogues that inform and improve policy decisions.



I. What JFF Is

1. Definition

Joint Fact Finding (JFF) is an intentional and specialized process that decision makers on all sides of a dispute can use to prevent, manage or resolve fact-intensive controversies. A carefully designed working group made up of stakeholders, rights-holders, and scientific and technical experts, engages in rigorous analytical dialogue. The process carves out key technical and scientific questions that are often at the heart of a controversy and maps areas of factual agreement that all parties can respect. Often, this process illuminates the reasons for disagreement and puts those areas in a proper context, thus helping to build a platform for policy agreement.

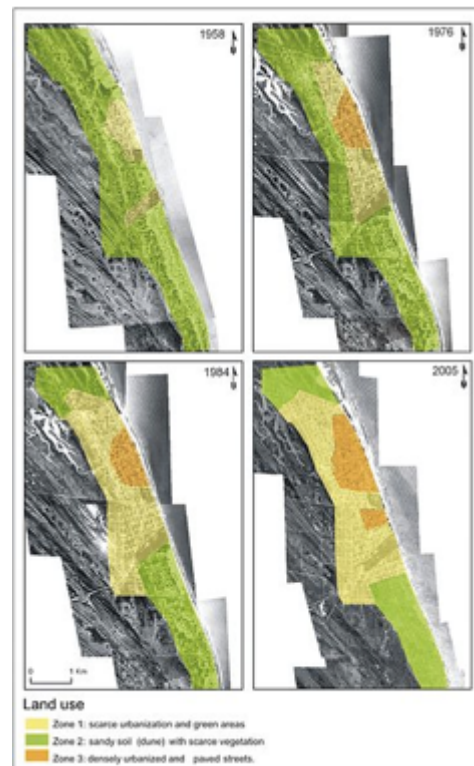


Depending on the situation, JFF can be embedded as part of a larger consensus-seeking effort or community conversation, or set up as a “stand alone” process. Because it can be tailored to accommodate the circumstances, Joint Fact Finding may be conducted under different names, including: “Independent Review Panels,” “Technical Advisory Groups,” “Stakeholder Panels,” “Study Groups,” “Peer Review Meetings,” “Policy Dialogues,” “Adaptive Management Working Groups,” “Science Advisory Roundtables,” or “Independent Scientific and Technical Advisory Panels.”

2. Why Use It

Achieving absolute scientific and technical certainty on all public issues is a virtual impossibility. The relevance of facts can also be elusive, misused, cherry picked or exaggerated--especially when they have not been vetted--and can take on a life of their own when repeatedly amplified in the blogosphere. Most often, complex disputes rely on dueling experts, contending studies and contradictory evidence. Given that there will always be controversy, the question is: is there a more productive way to handle a conflict when an important decision must be made?

Joint Fact Finding accomplishes three important objectives. First, it focuses on the best scientific and technical information available and sorts out key factual signals in



the white noise of heated disagreements. Second, it is a cooperative process that reduces some of the unnecessary friction that goes on when factions take sides on a big issue. Third, it builds sounder public policy by creating an agreed-upon base of knowledge.

JFF doesn't replace legislative, judicial, regulatory or collaborative decision-making processes. It informs them by streamlining some of the disagreements that are at the root of opposing stances.

3. *Typical Applications and Outcomes*

With its focus on achieving scientific or technical clarification, Joint Fact Finding can be used for complex problems that center on regulatory and policy-making matters, most often focusing on environment, energy, and public health questions. While no two JFF processes are the same, and depending on the specific mandate, a group's findings are usually synthesized into a single report that can delineate any of the following:

- An agreed-upon foundation of facts that should be considered for developing a new law, rule, standard or policy
- A much-narrowed range of factual disagreements
- A specific inventory of pertinent information
- An agreement by all parties about the specific research that is needed to advance policy options or make a decision
- A crisp and succinct review of the facts that sit behind different interpretations
- Any one of a number of specialized work products, such as estimates, trends and forecasts, or cause-and-effect analyses
- A set of findings and conclusions regarding key questions

4. *Key Ingredients for Success*

- ✓ **Political sponsorship.** A request from one or more leaders to sponsor a JFF process with a clear goal and a defined linkage back to the formal decision-making process
- ✓ **A well-framed task.** Specific factual questions that will be the focus of the effort
- ✓ **Substantive and procedural rigor.** A structured process for data gathering, information exchange and synthesis at a high level of thoroughness and sophistication

- ✓ **Sufficient resources.** The time and funding needed to accomplish a solid effort
- ✓ **Participation.** Agreement by key stakeholders and rights-holders to constructively engage in the effort
- ✓ **Skillful project management and consultation.** Facilitation and administrative support as needed sufficient to the scope and scale of the task
- ✓ **Diversity of skills and talents.** Identification and recruitment of the right mix of local and outside expertise are needed for successful give-and-take science-centered discussions. ‘Experts’ typically need to be willing and able to engage as collegial *partners*, investing substantial time in working with other stakeholders to devise research questions, explain their methods, and involve others in the collection and interpretation of data.
- ✓ **Building the forum.** Design of a safe setting in which information can be exchanged and deliberations can be conducted

5. *Costs*



Undertaking a JFF process requires time and financial support sufficient to the needs of the project. Costs need to be addressed on a project-by-project basis. Most often, government commissions and funds JFF procedures on important public issues that are coming before legislative or executive agencies. However, funding can also come from other sources, including foundations, businesses or individuals. JFF can benefit from the creation of a multi-party “resource pool” with commitments from government, civic groups and industry (where that is feasible). Whatever the funding source, it is imperative that the perceived and actual independence of a JFF effort is not jeopardized.

II. Examples of JFF Projects

1. *Children's Health*

Commissioned under the Federal Advisory Committee Act, the "Children's Health Protection Advisory Committee" brought together public health advocates, corporate medical experts, environmental advocates, state environmental agency representatives, public and private water experts, and risk assessors, and developed consensus recommendations to the Environmental Protection Agency regarding regulations, policies and science priorities affecting children's environmental health.

2. *Storm Water Management*

At the direction of the Board of Supervisors in Fairfax, Virginia and neighborhood associations, water experts and county public works officials examined the factual impacts of storm water runoff and developed new methods for managing runoff that were then ratified and implemented.



3. *Preservation of "Important Agricultural Lands"*

At the initiation of the City and County of Honolulu, and in the face of continuing development pressures, experts representing farmers, landowners, county officials, and agricultural experts reviewed property land use classifications and existing urban boundaries, and then developed, tested, scored and applied new criteria for the designation of "IAL" lands in a rapidly urbanizing setting.

4. *Vaccine Safety*

Commissioned by the Centers for Disease Control (CDC) in the face of growing controversy over vaccines and possible links to autism, a JFF stakeholder group reviewed the current research on vaccine safety and then developed and prioritized a fresh research agenda designed to fill important knowledge gaps.

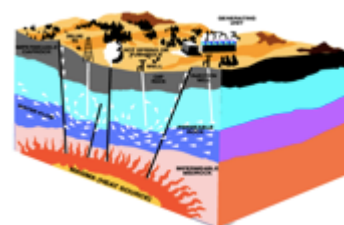


5. *Fisheries, Communities and Offshore Wind*

Supported by the Nippon Foundation, a series of roundtable conferences was held with stakeholders from fisheries, local communities, regional wind developers and other experts. The participants examined the factual basis of new wind farms and fashioned a mutual-gains concept that would simultaneously produce new energy and enable local tourism.

6. *Geothermal Health Impacts*

Directed by the Mayor of Hawai'i County in Hilo, a JFF process was initiated to examine long-running allegations of health harms from periodic hydrogen sulfide emissions. The group was asked to recommend the general



parameters of a longitudinal health study, which is now underway.

7. Agricultural Water Use and Measurement

Commissioned by the State of California, an independent review panel produced a consensus recommendation on a suite of actions intended to improve the way agricultural water is used and measured in California. One panel focused on water



conservation potential; the second on appropriate metrics for agricultural water use. The conservation panel created a new methodology and funding concept focused around measurable objectives, targeted benefits and regional incentives; this became the basis for \$100 million in grants and loans to promote conservation.

8. Water Sharing

Initiated by the United States Agency for International Development, in partnership with the Natural Heritage Institute, Namibian Nature Foundation and IUCN, this involved a three-nation training and collaborative planning effort to introduce river basin planning to Angola, Namibia and Botswana.

III. Process

Joint Fact Finding collaborations tend to follow a series of stages. They vary in length, but the sequence usually proceeds as follows:

1. **Start.** A sponsor, funder, convener or political champion appraises the situation and, if the timing and politics seem right for a focused joint fact finding effort, will often discuss the idea with other partners, assign a staff member to explore it, or retain a facilitator to help assess the viability of initiating a process. Professional, neutral facilitators can help even at this initial stage by conducting a situation or conflict assessment and designing the sequence of steps needed to complete the JFF process.



2. **Scope.** An independent facilitator may begin by conducting a series of exploratory interviews to gather disparate views, help further define the issues, and begin to identify appropriate individuals to sit as members of the JFF working group.

3. **Plan.** Based on interviews, the facilitator or project manager will lay the specific groundwork for the coming conversation. This requires the recruitment and selection of JFF participants (which also can be done by or with a steering committee). This stage usually also involves the development of: conflict-of-interest forms; a draft “charter” or terms-of-reference document; a website for the posting of documents; a proposed schedule of meetings; and, in many cases, a design for meetings that invite public participation.

4. **Convene.** The conveners, sponsors and political leaders who have lent their names and support often start initial meetings. They may share expectations and urge JFF group members to engage their task with the highest possible degree of cooperation. Beyond that, the first part of an initial meeting is usually devoted to organizational matters and the second part to a preliminary pass at exchanging views on the topic.

5. **Research and deliberate.** This phase will often run over multiple sessions. The heart of JFF requires formulating and prioritizing more detailed questions, exchanging information sources, bringing salient data and evidence to the table, and weighing and deliberating on that information. Some of the specifics may include working with experts to define or sharpen the questions, preparing research agendas, and assessing data collection needs.

6. **Align.** JFF groups must eventually reach agreements and, pursuant to their charge, formulate pertinent recommendations. Reaching agreements, even if there are dissenting voices, is not always easy; however, the process is always tied to the ground rules for decision making as spelled out in the agreed-upon charter or terms-of-reference document.

7. **Produce.** Once aligned, JFF groups must then memorialize the work that has been done, along with their findings and their recommendations. Because wording matters, this often requires considerable editing and a series of final negotiations.

8. **Deliver.** At the end of the process, delivery and rollout may involve summary supplemental briefings to the project's conveners and sponsors and, in some cases, meetings with other public officials. Honoring the work of the JFF participants and celebration are also an important part of project closure.



IV. Guidance

1. For Conveners, Sponsors, Funders and Political Champions ¹

Conveners, sponsors, funders and political champions are the “gatekeepers” to successful Joint Fact Finding. They are the ones most capable of setting the right process in motion at the right time and in the right way. If a process does not have high-level political and financial support, it is unlikely to have a demonstrable impact. In the face of identified challenges or issues, here are some key considerations:

- **Appropriateness.** The convener, sponsor, funder or political champion must be willing to remain neutral and not use the JFF process to ensure his or her own preferred agenda.
- **Timing.** The political moment must be right. JFF tends to be most effective when there is a policy window of opportunity and a reasonable deadline.
- **Partners.** Support from other partners and sponsors will often strengthen the credibility of a JFF.
- **Time.** Sufficient time must be allocated for a meaningful process.
- **Resources.** Funding and other resources--including the necessary expertise--must be available.
- **Sector Support.** Conveners, sponsors, funders and political champions must ensure that there is support from other colleagues in their sector so a process will not be inadvertently undermined by other political agendas.
- **Facilitation.** Skilled, neutral facilitation is usually needed to design and carry out an effective JFF. This requires due diligence and the selection of a facilitator who is a good fit for the process by virtue of experience, knowledge and expertise.
- **Launch.** Conveners, sponsors, funders and political champions need to publicly make their involvement in JFF known and understood. Ideally, they are present at the beginning to help start a process and again at the end when the group formally passes its work into the decision-making process.

2. For Stakeholders and Rights-Holders

A balance of the diverse voices and views involved in any given factual conflict is imperative if a JFF is to be informed, credible and productive. This means different stakeholders and legal rights-holders with subject-relevant expertise must fundamentally trust that the composition of the JFF group is not skewed or unbalanced and that they will not be subverted or marginalized. Some useful criteria

¹ Adapted from “Convener’s Checklist” at <http://collaborativeleadersnetwork.org/leaders/conveners-checklist/>

for selecting participants, and for the decision by individuals to participate in a JFF, include:

- A stake in the issue at hand, and an interest in seeing certain facts or issues taken into account.
- Previous experience providing scientific advice on public policy matters.
- Demonstrated ability to integrate a multidisciplinary perspective.
- Prior experience with highly contentious issues that hold high-stakeholder interest.
- Ability to relay information to other stakeholder and rights-holder constituencies.
- Comfort with conflict, complexity and ambiguity.
- Willingness to assess many different reports and studies.
- Availability to work on a JFF team for the duration of the project.

While every JFF will be tailored to particular circumstances, these or similar criteria can help guide the creation of a working group.

3. For Independent Scientists and Technical Experts

It is almost always useful to JFF groups to have several independent scientists or technical experts participate who are not themselves directly aligned with--or solely accountable to--one or another faction. Independent experts bring knowledge, expertise and experience to the effort, without the “heat” that can sometimes cloud objectivity. Provided they can stay neutral, they can sharpen the questions at hand, identify potential sources of data, distinguish between more useful and less useful studies that are germane to the questions at hand, open doors to other scientific or technical institutions, and summarize the state of knowledge and pressing questions being dealt with in various fields and disciplines related to the subject.

Independent scientists and experts working with JFF processes must be prepared to engage in meaningful discussions with other stakeholders who are not experts in scientific disciplines. They must be able to explain their methods and what their findings mean and stay open to the notion that there is typically more than one way to approach an issue and more than one possible answer. They must also be willing to work within the conceptual context of a JFF process, as distinct from an adversarial science setting.

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